

Burbank Water and Power

MEMORANDUM

DATE: DRAFT

TO: Burbank Water and Power Board

FROM: Ron Davis, General Manager - BWP

SUBJECT: PROPOSITION 23: SUSPENDS AIR POLLUTION CONTROL LAWS REQUIRING MAJOR POLLUTERS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING UNTIL UNEMPLOYMENT DROPS BELOW SPECIFIED LEVEL FOR FULL YEAR.

PURPOSE

To consider taking a position on the November 2010 California State Ballot Petition, Proposition 23.

BACKGROUND

In 2006, the state enacted the California Global Warming Solutions Act of 2006, commonly referred to as Assembly Bill 32 (AB 32). This legislation established the target of reducing the state's emissions of greenhouse gases (GHGs) by 2020 to the emission levels in 1990. It is estimated that achieving this target would result in approximately a 30 percent reduction in GHGs in 2020 from where their level would otherwise be in the absence of AB 32.

AB 32 requires the state Air Resources Board (ARB) to adopt rules and regulations to achieve this reduction. The law also directs ARB, in developing these rules and regulations, to take advantage of opportunities to improve air quality, thereby creating public health benefits from the state's GHG emission reduction activities.

On December 22, 2009, Thomas Hiltachk, the managing partner of the California law firm Bell, McAndrews, and Hiltachk, submitted a proposed statewide ballot measure to the state's Attorney General for the November 2010 statewide ballot. The proposed initiative is entitled the "California Jobs Initiative," and would suspend the implementation of AB 32 until the unemployment rate in California falls to a level of 5.5% or less for four consecutive calendar quarters.

The initiative petition was deemed to have enough signatures to qualify for the November 2 ballot by the Secretary of State on June 22, 2010.

ANALYSIS

The proposition suspends the implementation of AB 32 until the unemployment rate in California is 5.5 percent or less for four consecutive quarters. During the suspension period, state agencies are prohibited from proposing or adopting new regulations or from enforcing previously adopted regulations that would implement AB 32. (Once AB 32 went back into effect, this measure could not suspend it again.)

Under the proposition, AB 32 would be suspended immediately. However, it is not possible to estimate when the suspension for AB 32 might end. The state's Legislative Analyst's Office (LAO) looked at the impacts of Prop. 23 on climate change regulations and provided a historical perspective on the state's unemployment rate. The LAO's report shows that, since 1970, the state has had three periods (each about ten quarters long) when the unemployment rate was at or below 5.5 percent for four consecutive quarters or more. The unemployment rate in California for the first two quarters of 2010 was above 12 percent. Economic forecasts for the next five years have the state's unemployment rate remaining above 8 percent. The average unemployment rate in California since 1990 has been 7 percent. Given these factors, it appears likely that AB 32 would remain suspended for many years.

In addition, the proposition would result in the suspension of a number of measures in ARB's Scoping Plan for which regulations either have been adopted or are proposed for adoption. Specifically, the proposition would likely suspend:

- The proposed cap-and-trade regulation
- The "low carbon fuel standard" regulation
- The proposed ARB Renewable Energy Standard regulations
- AB 32 fee and reporting regulations

However, much regulation in the Scoping Plan would likely continue because the plan's regulations implement laws other than AB 32. The regulations that would likely move forward include:

- New vehicle emission standards for cars and smaller trucks
- A program to encourage homeowners to install solar panels on their roofs
- Land-use policies to promote less reliance on vehicle use
- Building and appliance energy efficiency requirements

The LAO's report also discussed the potential impacts on California economy and state and local revenues and concluded that, on balance, economic activity in the state would likely be modestly higher if this proposition were enacted than otherwise.

CONCLUSION

Opposition to the proposed initiative would be consistent with past City positions, including its support of AB 32 when the bill was before the state legislation in 2006, its adoption of a Renewable Portfolio Standard that calls for 33% of its energy to be generated from renewable sources by 2020, and its support of federal legislation that would reduce greenhouse gas emissions.

RECOMMENDATION

That the Burbank Water and Power Board recommend an oppose position on Proposition 23 to the Burbank City Council.

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